REMARKS

Claims 1-29 of the application stand rejected. Claims 1, 5, 8, 12, 21 and 25 have been amended herein to more clearly define the scope of the presently claimed invention. Applicant respectfully requests reconsideration of pending Claims 1-29 in light of the amendments and remarks herein.

35 U.S.C. § 102

Claims 1-6, 8-10, 12, 14, 20-23, 25-27 stand rejected under 35 U.S.C. § 102 as anticipated by Lee, et al., U.S. Patent No. 6,463,175 (hereafter "Lee"). The Examiner submits that Lee teaches all the elements of independent Claims 1, 5, 8, 12, 21 and 25. Applicants respectfully traverse the rejection.

Appellant respectfully submits that the rejection of Claims 1-6, 8-10, 12, 14, 20-23, 25-27 is facially deficient because the Examiner has not established a *prima facie* case of anticipation based on Lee. As is well-established, in order to establish a *prima facie* case of anticipation under 35 U.S.C. § 102, the prior art must disclose each and every limitation of the claims being rejected. Therefore, if even one claim element or limitation is not disclosed by the references, *a prima facie* case is not established. Additionally, as the Federal Circuit has noted,

> "As adapted to *ex parte* procedure, Graham [v. John Deere Co.] is interpreted as continuing to place the 'burden of proof on the Patent Office which requires it to produce the factual basis for its rejection of an application under sections 102 and 103."

In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967)). The Examiner thus has the burden of producing a factual basis for his rejection and for establishing anticipation by identifying how each recited claim element is allegedly disclosed by the cited reference. The Examiner has failed to establish such a *prima facie* case here and has merely provided bare allegations that the reference anticipates the claims. For example, the Examiner states that the "structure-guided image feature enhancement process" of Lee is disclosed in Col. 10 of Lee and that this section essentially discloses a "correction specification." The Examiner further submits that the "structuring element"

described in this section of Lee is a correction-configuration parameter. In fact, this section of Lee reads as follows:

> "Those skilled in the art should recognize that the structure-guided feature enhancement process could start with grayscale opening followed by grayscale closing or start with grayscale closing followed by opening. Opening first will enhance dark features and closing first will enhance bright features. Each opening and closing iteration could use the same size structuring element for detailed feature refinement or could use an increased size structuring element for more aggressive feature refinement. Elongated structuring elements of orthogonal directions could be alternatively or sequentially applied in the enhancement processing sequence for multiple direction feature enhancement."

Despite Applicant's arguments otherwise, the Examiner continues to maintain the general position that Lee, Col. 10, lines 17-28, discloses these elements. Applicants submit that this general allegation fails to establish a *prima facie* argument for anticipation. Specifically, the Examiner has failed to show how each element of the claimed invention is taught by the section highlighted above – a mere statement that this section teaches various elements is insufficient to establish such a *prima facie* argument.

Applicants respectfully submit that the "correction specification" as claimed herein is not taught by the section highlighted by the Examiner above. Specifically, the specification describes:

> "As understood herein, correction is not necessarily limited to correct a technical deficiency of the image and/or image feature; correction may also include, but is not limited, to adjusting, enhancing and in any other way modifying the image and/or image feature characteristics whether for technical or aesthetic purposes. To perform such processing, the set of specified image features is identified by the automated feature-based image correction mechanism 120. For example, a specified image feature may correspond to a human face, a building, an animal, etc. Using the human face example, to perform feature-based image correction, occurrences of a human face in the input image 110 are detected. The correction may then be performed based on the characteristics of the detected image features. Different types of image features may be defined in the input image 110. For instance, buildings may also be defined as an image feature in addition to a human face. Furthermore, each image feature type (e.g., human face) may have more than one occurrence in a single input image (e.g., multiple faces in the same picture)."

Specification, Page 4

This correction specification is significantly different from the "structuring element" in Lee. Specifically, the correction specification as claimed may be used to correct a variety of deficiencies in the image and/or image feature. Neither Lee, Col. 10, nor the sections of Lee ,Col. 5 highlighted by the Examiner describe such a correction specification. Instead, they merely describe generally how the system in Lee extracts a

feature from an image. There is, however, no suggestion that this process is automated *based on a correction specification.*

In summary, the "structure guided feature enhancement process" in Lee, as highlighted by the Examiner, has no bearing on the currently claimed invention. This section of Lee does not show the claimed elements of a process that i) automatically detects features based on a correction specification ii) generates a feature description for the detected feature AND iii) corrects the input image based on the feature description and correction specification. The Examiner has not made a sufficient showing otherwise, and as such, Applicants respectfully submit that Lee does not disclose all elements of independent Claims 1, 5, 8, 12, 21 and 25. Lee therefore does not anticipate these claims. Similarly, since all claims dependant on Claims 1, 5, 8, 12, 21 and 25 also incorporate these elements not taught by Lee, Applicants submit that Lee also does not anticipate dependant Claims 2-4, 6, 8-10, 14, 20, 22, 23 and 25-27. Applicants therefore respectfully request the Examiner to withdraw the 35 U.S.C. § 102 rejections to pending Claims 1-6, 8-10, 12, 14, 20-23, 25-27.

35 U.S.C. §103

Claims 7, 11 and 24 stand rejected under 35 U.S.C. §103 as being unpatentable over the combination of Lee in view of U.S. Patent No. 6,026,181 ("Murakami"). Claims 15-17 and 28-29 stand rejected under 35 U.S.C. §103 as being unpatentable over the combination of Lee in view of U.S. Patent No. 6,292,575 ("Bortolussi"). Claim 18 stands rejected under 35 U.S.C. §103 as being unpatentable over the combination of Lee and Bortolussi in further view of Murakami. And finally, Claim 19 stands rejected under 35 U.S.C. §103 as being unpatentable over the combination of Lee and Bortolussi in further view of U.S. Patent No. 6,463,432 ("Murakawa"). Applicants respectfully traverse the Examiner's rejection to the remaining claims. Applicants respectfully traverse the rejections.

Applicants respectfully point out that all of these rejections are based on Lee in combination with other references. Since Claims 7, 11, 15-17, 19 and 28-29 are dependant on independent Claims 1, 5, 12, 21 and 25, the Examiner is apparently relying on Lee to teach all elements of independent claims 1, 5, 12, 21 and 25 and suggesting that

the combination of Lee with the various other references renders the dependant claims unpatentable. Applicants respectfully submit that as described above, the Examiner has failed to establish a *prima facie* case for anticipation based on Lee. Additionally, Applicants have highlighted the various ways in which Lee does not teach elements of the independent claims. Thus, without addressing the propriety of combining the cited references with Lee, Applicants submit that the combination of any of these other references (Murakami, Bortolussi and/or Murakawa) with Lee also does not teach all elements of the independent claims. Since the dependant claims incorporate all elements of the independent claims, these references, alone or in combination, cannot render any of the claims unpatentable. Applicants therefore submit that Claims 7, 11, 15-17, 19 and 28-29 are patentable over Lee, Murakami, Bortolussi and/or Murakawa, alone or in combination, and respectfully request the Examiner to withdraw the 35 U.S.C. §103 rejection to these pending claims.

CONCLUSION

Based on the foregoing, Applicants respectfully submit that the applicable objections and rejections have been overcome and that pending Claims 1-29 are in condition for allowance. Applicants therefore respectfully request an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (714) 669-1261.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

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